

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

DAVID BANKSTON,

Plaintiff,

v.

UNITED STATES OF AMERICA,
JOEL MYERS, DO, CIV, Individually and
as Agent, Servant or Employee of
NAVAL HOSPITAL BEAUFORT and
THE UNITED STATES OF AMERICA,
NAVAL HOSPITAL BEAUFORT, a
Political subdivision of the Department of the
Navy and United States of America,

Defendants.

C.A. No. 9:20-cv-02584-DCN

AFFIDAVIT OF EXPERT STEPHEN A. FANN, M.D.

PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED, WHO BEING DULY SWORN, STATES AS FOLLOWS:

1. I am a Fellow of the American College of Surgeons, and prior State Chair for the Committee on Trauma. I am also a member of the Eastern Association for the Surgery of Trauma, Shock Society, Association of Academic Surgeons, Society of Critical Care Medicine, the American Medical Association, the South Carolina Medical Association and the South Carolina Trauma Advisory Committee. I am currently president of the South Carolina State Chapter of the American College of Surgeons.

2. I have been actively practicing medicine since 1998. I completed Medical School at East Carolina University a General Surgery Residency at the WJB Dorn VA Hospital in Columbia, South Carolina and a General Surgery Residency at Palmetto Richland Memorial Hospital, Columbia, South Carolina. I was a Fullerton Foundation Critical Care Fellow at the University of South Carolina School of Medicine, General Surgery Department.

3. I served as the Associate Program Director for the University of South Carolina School of Medicine, Department of General Surgery from 2005 through 2010. I currently serve as the Associate Medical Director Trauma Services for the Medical University of South Carolina,

Chairman and Chief Medical Officer for Vitasol, Inc. and the Chief Medical Officer for Synovista, Inc. I am an Associate Professor at the Medical University of South Carolina, Division of General Surgery.

4. I am licensed by the American Academy of Pediatrics, I hold Certificates from the American College of Surgeons, American Academy of Pediatrics, American Board of Surgery, Surgical Critical Care, American Board of Surgery, American Board of Surgery and the American College of Surgeons.

5. I am licensed to practice medicine in the State of South Carolina.

6. My clinical practice involves all aspects of general surgery including hernia surgery such as the right totally extra peritoneal laparoscopic inguinal hernia repair performed on the Plaintiff in this matter. I am trained to diagnose and deal with complications such as those occurring after the surgery performed by the Defendant, Dr. Joel Myers at the Naval Hospital Beaufort on July 2, 2018.

7. I have been in the practice of medicine and general surgery for more than 22 years.

8. My education, training, and experience are set forth in the attached CV (Exhibit A). It is my belief that my education, training, and experience qualify me to render expert opinions in regard to the care rendered to the Plaintiff, David Bankston.

9. I am familiar with the standard of care as to what a reasonably prudent physician would do or not do in performing the surgery such as that performed on the Plaintiff and in diagnosing and treating complications such as those experienced by the Plaintiff after the surgery performed by the Defendant, Dr. Joel Myers at the Naval Hospital Beaufort on July 2, 2018.

10. I am likewise familiar with the breaches of the standard of care, which may occur in performing surgery and dealing with complications encountered in the performance of surgery and in diagnosing and treating any complications that might arise during and after surgery.

11. I have not only reviewed the records from the Naval Hospital Beaufort, particularly the operative report but I performed the surgery on the Plaintiff, David Bankston, on May 2, 2019

to correct the problems caused by the surgery performed by Dr. Joel Myers at the Naval Hospital Beaufort. Prior to giving this Affidavit, I reviewed the Naval Hospital records as well as my own treatment records from the Medical University of South Carolina.

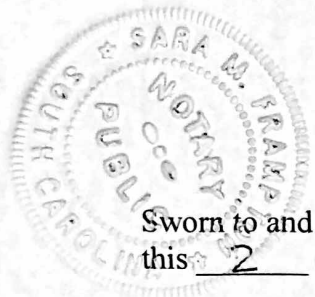
12. The records I have reviewed are the type of documents that I would consider in rendering a medical opinion in this case. Furthermore, the fact that I performed the corrective surgery on Plaintiff allows me to render medical and standard of care opinions in this case.

13. After my review of these records, it is my opinion, to a reasonable degree of medical certainty, that the Defendant, Dr. Joel Myers, Individually and as Agent, Servant or Employee of Naval Hospital Beaufort and Naval Hospital Beaufort, by and through their agent, Dr. Myers, committed negligent acts or omissions in performing the right totally extra peritoneal laparoscopic inguinal hernia repair, including but not limited to the following:

- a) The mesh was found external to the external oblique aponeurosis which is the wrong location for mesh placement in a laparoscopic hernia repair.
- b) The mesh contracted down to a "meshoma" and was densely adherent to cord structures at the level of the external ring.
- c) The adherent mesh could not be removed without sacrificing the testicle on the affected side.
- d) The improper location of the mesh failed to repair the patient's original hernia which I then repaired with an open technique.

14. In closing, my opinion, within a reasonable degree of medical certainty, is that the treatment or lack thereof rendered to David Bankston by Dr. Joel Myers, Individually and as Agent, Servant or Employee of Naval Hospital Beaufort and Naval Hospital Beaufort, by their Agent, Dr. Myers, in the inappropriate placement of mesh and repair of right inguinal hernia fell below the standard of care and was the proximate cause of the injuries that Mr. Bankston suffered including but not limited to the need for a revision surgery and need for the right orchiectomy.

15. I reserve the right to supplement or amend this affidavit and/or my professional opinion after reviewing additional medical records, depositions, or other information relating to the care and treatment of the Plaintiff, David Bankston.



Stephen A. Fann
Stephen A. Fann, M.D.

Sworn to and signed before me
this 2 day of July, 2020

Sara M. Frampton
Notary Public
My Commission expires: 4/10/2024